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December 24, 2024

Via ECF

Hon. Naomi Reice Buchwald
U.S. District Judge
U.S. District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: Margaret Betts v. Sixty Lower East Side, LLC, et al., 1:20-cv-04772 - Request for Preclusion of Defendant's Expert Witness Due to Delay in Providing Examination Transcript

Dear Judge Buchwald:

As counsel for Plaintiff Margaret Betts, I write regarding the defense's failure to provide the expert report and transcript from Dr. Julie Medlin's psychiatric examination of the Plaintiff, conducted on November 11, 2024. Despite 42 days having passed since the examination and multiple follow-up requests, the defense has not produced this critical document. This delay is causing substantial prejudice to the Plaintiff and obstructing our ability to depose Dr. Medlin and complete the expert discovery.

Under Rule 26 of the Federal Rules of Civil Procedure, a party may depose an expert witness only after receiving their expert report. The absence of this transcript significantly hinders the Plaintiff's ability to prepare for trial and challenge Dr. Medlin's anticipated testimony effectively.

Despite these challenges, the Plaintiff has made every effort to move this case forward. For instance, we have accommodated defense counsel's last minute request to rescheduling Plaintiff's second expert, Dr. Otonichar, originally scheduled and confirmed for December 18, 2024. Dr. Otonichar's deposition was rescheduled for January 3, 2025. This reflects our commitment to avoiding delays and advancing the resolution of this matter.

Given the prejudice caused by the defense's failure to provide the transcript, we respectfully request that the Court preclude Dr. Medlin from testifying at trial. Preclusion is a necessary and proportionate remedy to ensure fairness and prevent further disruptions to the discovery process.


Should the Court prefer, we are available for a conference to address this matter further. Thank you for your attention to this issue.

Thanking you in advance for your prompt attention to this issue.

Request denied.

The Court expects Dr. Medlin's report to be produced promptly.

So ordered.


NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

Dated: January 3, 2025
New York, New York

Respectfully submitted,

NAPOLI SHKOLNIK PLLC


Joseph Napoli, Esq.